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ABSTRACT

This report presents the activities of the Child and Government Project (CGP), a research and training program which focuses on government policies that affect children. The project's research efforts described in this report are divided into the following categories: (1) Spending on Children, (2) Children and the Law, (3) Foster Care, and (4) Education. Reform efforts instituted by the project are concentrated in the areas of school finance, educational reform, and foster care reform. Other project activities include providing information on issues to academicians, policy makers, and the general public; publishing scholarly works; and training Berkeley graduate and law students for future policy roles. A list of project-related publications, articles, and symposia, as well as resumes of project staff members are included. (SDH)

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Childhood & Government Project

Annual Report 1973-1974

Childhood & Government Project
of
The Earl Warren Legal Institute
University of California
Berkeley, California 94720
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U.S. DEPARTMENT OF HEALTH,
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Introduction

The Childhood and Government Project of the Earl Warren Legal Institute, School of Law, University of California, Berkeley, was established in November 1972 and initially funded through September 1974 under grants from the Ford Foundation and the Carnegie Corporation of New York. Because Ford and Carnegie have announced the renewal of our grants, the Project's continued existence for three additional years is now assured.*

Our mandate is broad: to institute a program of research and training relevant to governmental policies that affect children. This report is an account of our activities toward that end during the past year and indicates what we have projected for the future.

The Project is now fully staffed. Currently participating in the Project's work, in addition to the director and the five Berkeley

*The Project's funds are shortly to be supplemented by a grant from The Spencer Foundation.

professors who began the Project, are six full-time and seven part-time staff members, and a large number of students, all drawn from various disciplines. A section on the staff at the end of this report contains the resumés of the Project's personnel.

Since its inception, almost all of the Project staff's research and scholarship has been related to one central concern: the proper allocation of power over and responsibility for children in our society. It is our hope that this research will inform and influence policy decisions relating to children in the years to come. Several books and numerous articles have emerged from this aspect of our work, and we have involved ourselves in the process of implementing our ideas into policy by drafting model legislation, developing litigation strategies, and participating in lawsuits as *amicus curiae*.

The creative tension between the demands of scholarship and the need for immediate solutions to significant policy problems has been stimulating and exciting. Our work, although varied in subject matter and immediacy, has demonstrated that the worlds of schools, families, foster parents, the poor, and the responsible state and federal politics can be examined through the world of childhood. This is a tremendous heuristic advantage. The state's direct and indirect relation to children poses some of the most interesting technical issues of social science and law, all within a context of public choice involving questions of justice and social policy of the most crucial sort.

Our plans involve three commitments:

1. To pursue our ongoing social science and legal research, the central focus of which is the study of the proper allocation of power over and responsibility for children among parents, the child, and the state. This research shall produce a number of major works of immediate policy relevance or longer range scholarly importance. Although these will be independent contributions, each will relate to the Project's central collaborative work-

informally dubbed "the big book"—which will provide an analytical framework for thinking about government policy toward children and speak comprehensively to the political economy of childhood.

2. To continue our involvement, on a selective basis, in immediate reform efforts. Although our primary concern is with long-term policy questions, we believe that involvement in reform strengthens our basic research and allows us to establish and maintain contact with individuals who make policy and administer programs relating to children. Moreover, in areas where we have expertise, the Project can, we believe, make significant contributions.

3. To continue our program of education, training, and dialogue. Because our concerns are long range, training is a critically important element in our program, and we think it essential to involve students in our projects on an ongoing basis. Project work has involved more than fifty students from the Law School, School of Education, School of Public Policy, and other graduate school departments such as economics, sociology, and psychology. The Project has also sponsored several innovative courses, and Project members have published two new casebooks. Publication of additional teaching material concerning children and the law will be a central concern over the next three years, during the second phase of our work.

Research

The world of childhood and government is obviously complex in its variety and detail. Children differ, families differ, and—in a federal union—governments differ. Yet as we have penetrated particular areas such as school finance, vouchers, and governance, moral and political education, and foster care, we have begun to perceive, in this variety of contexts, an underlying question: How should power over and responsibility for children be allocated in our society?

The focus of the Childhood and Government Project represents a marriage of law and economics. We are primarily concerned with what might be called the political economy of childhood; we are concerned not only with the allocation of resources but also with allocation of power. We ask, for various policies and programs relating to children: What resources are and should be provided to a child? Who pays and should pay for those resources? Who decides and should decide what experiences a particular child will have?

SPENDING ON CHILDREN

The ultimate questions that inform the Project's research on spending are those that seek to discover who is spending for children, who should be doing the spending, and in each instance, why? We are continuing to explore these issues, looking both broadly and specifically into public and private spending, and to formulate our findings and answers for publication as a book or series of monographs. This work is in three segments.

1. Household Location and Public Spending on Children: A Micro-Economic Analysis

Professor Charles Benson, together with urban planners Gareth Hoachlander and Elliott Medrich, have been addressing the following overriding issue: What social and economic forces determine children's accessibility to different forms of group consumption?

Because most items of group consumption available to young people are publicly financed, the researchers have been particularly concerned with examining intra-city disparities in providing services and analyzing inter-municipal differences to determine relative access to the array of available public and quasi-public services.

The work on patterns of residential location has been completed, with preliminary findings indicating significant residential clustering by socioeconomic status, race, ethnicity, age, and family life styles. Now able to estimate what the probabilities are that families of certain socioeconomic characteristics and race will be successful in finding a residence in particular communities in six San Francisco Bay Area Counties (Alameda, Contra Costa, Marin, San Mateo, Santa Clara, and San Francisco), Benson and staff are engaged in the complementary task—to determine how this residential choice affects the services available to children. This area of research, well underway, is concerned with exploring:

- To what extent does choice of specific residential loca-

tion affect the types and qualities of group consumption activities made available to young people?

- Assuming differences in child-oriented public sector activity by neighborhoods and local jurisdictions, what are the costs for households of different income levels to move from one public sector service pattern to another?
- To what extent, if any, do central cities have an advantage over suburban areas in specialized services for young people?
- To what extent, if any, are rates of participation in group consumption activities functionally related to social class?
- To what extent, if any, are rates of participation in client-specialized public and quasi-public services related to current levels of output in conventional public services, e.g., police, health, regular school programs, etc.?

The policy implications of this research are numerous: Is the quasi-market for public services hypothesized by economists an effective mechanism for satisfying household preferences for particular service/tax packages? What barriers—economic, social, racial, statutory or administrative—inhibit access to the metropolitan market place? Is there any justification for breaking or loosening the nexus between household residence and service availability? Can the service sector be reorganized to obtain more autonomy for children to satisfy their personal preferences?

The research is micro-economic in nature; although the chief geographic site of this work has been the San Francisco-Oakland region, the researchers expect to be able to demonstrate the general applicability of their methods and policy proposals.

In addition, Norton Grubb is undertaking two studies, using

more macro data, to investigate changes in the socioeconomic and racial composition of communities over time. While this research is purely descriptive, the implications for policy—especially when combined with the more detailed findings of Benson *et al.*—will be numerous.

2. Public Spending on Children: Reality and Theory

Dr. Gerald Weber's study of public spending on children estimates and analyzes current patterns of spending; determines the rationale for public spending on children; and analyzes the use of appropriate policy instruments for government intervention. He plans to produce a major publication aimed at developing a background for creating and revising governmental policies affecting children. It has three aspects.

a. *Current Patterns of Public Expenditures.* Much of the Project's work will develop information and ideas that might support change in the shape of public intervention on behalf of children and in the specific governmental programs that influence children's lives. Most change, however, particularly in governmental budgets, is incremental, and tomorrow's expenditures are constrained by today's realities. Because we are aware of this tension, we hope that by providing a general picture of the level and focus of current spending, a framework will emerge within which to view the future.

Over the past year, extensive review of the literature and of federal and state documents has clarified the areas we wish to explore:

- How public support is presently distributed among different levels of government—federal, state, county, and local.
- The role of government money as a complement to and substitute for private family support of children.

Drawing upon the micro-economic work on private spending being done by Grubb and Stern (discussed below), Weber's investigation will, however, focus more on children and will aggregate data on private expenditures for specific items such as medical care, clothing, education, toys, recreation, and housing. This picture of private allocation will thus provide a base for comparing estimates of public support for specific categories of goods and services in addition to support through general income maintenance.

- Variation in intergovernmental support of children's programs. The states will be surveyed, and a few selected states will be studied in depth.
- The limitations in the available data. Since many programs that affect children involve public support or family spending, procedures must be developed to estimate what proportions of the expenditures actually go to children. We hope to describe how data collection can be improved to be more useful for future policy purposes.

b. *The Rationale for Public Spending on Children.*

Symposia such as the White House Conference on Children tend to have a wide-ranging agenda for public intervention. The rationale for substantial public support is not clearly developed, however, and no clear sense of priorities is evident.

Our work of the past year has indicated that public support, aside from educational spending, is oriented towards specific categories of children, and largely operates through family-directed aid. We will therefore study the proportion of public spending related to characteristics of age, health, mental ability, behavior, and family circumstances. We will look at the interface of those characteristics with family income, and indicate the extent to which government expenditures provide benefits to children

through family grants.

In addition to the empirical work, Weber will attempt to answer: When should the public rather than the family bear the extra costs required by children with special needs? If costs should be shared, what criteria should be used to determine the private and public portions? He will then attempt to determine the potential impact of projected changes in family structures, age distribution of the population, and economic production on the role of government during the next twenty-five years. Alternative scenarios will be used to focus on alternative future government roles.

c. *The Choice of Policy Instruments for Governmental Intervention.* Because the instruments chosen for governmental intervention differ in terms of equity, efficiency, and effectiveness, the study will analyze and describe how the mode of governmental action has been chosen in the past to fulfill various kinds of social objectives.

3. Economic Behavior Within the Household: Private Spending on Children

While patterns of public spending on children have received some attention in the past, private spending on children has been ignored. Using the Michigan Survey Research Center panel study of income dynamics, which collected information on family composition, expenditures, and allocation of time for some 5,000 families over a five-year period, staff economist Norton Grubb and Professor David Stern of Yale University will complement Weber's work on public spending with a study of private spending. They will address the following general questions:

- If various economic theories are applied to household decision making, what behavior should we expect?
- On the basis of existing data, how do households actually behave in their spending on children?

The answers to these questions have enormous relevance for the formulation of public policy with respect to children. Application of economic theory may provide some useful insights into the effects of giving the control of economic resources to the parent rather than the child and into when it is proper for the state to deny the power of parents to make decisions for their children. The empirical work will yield information about how spending on children differs by income class, and how children will be affected if income is redistributed to poor families.

Analysis of these various sets of data will also shed light on policy questions relating to various income maintenance programs. The goal is to determine: 1) the approximate mix of cash grants, vouchers, and direct government provision of services and 2) the criteria for determining the method that would best provide certain kinds of services to children.

CHILDREN AND THE LAW

Expenditures and taxes are not the only means by which government influences children and parents. Law establishes a framework which reflects and influences interactions among the child, the family, the community, and the state. Childhood is not only a biological status; it is also a legal invention. Since the inception of our Project, one of our primary objectives has been to describe and analyze what it means to be a child for purposes of the law.

Treatise on Childhood and the Law

During the past year, F. Raymond Marks, a research attorney with the Project, has prepared a series of memoranda surveying and analyzing the rules of law regarding children in the traditional areas of legal discipline, such as crimes, torts, domestic relations, contracts, property, and agency. This work will result in a treatise on childhood and the law that will provide a cohesive overview, a

much-needed resource for lawyers, courts, legislatures, and scholars.

The projected major sections, each of which will consider the relevant statutes, administrative regulations, the common law, and constitutional law, are: The child in relation to the ongoing family; the child in relation to the dysfunctional and dissolved family; the child in relation to the state; the child in relation to third parties; and the child in relation to self.

The end product will be both an exhaustive restatement of what the law is, as well as an analysis of the values, norms, and intentions reflected in the law. Marks believes that law can tell us how children are viewed by society, that legal materials can be viewed as formal statements of the expectations society has of its children—their present capacities and their potential for growth.

Children and the Law: Cases and Materials

The few available casebooks on juvenile law focus primarily on the delinquency and dependency jurisdiction of the juvenile court; they deal neither with the legal framework for the child's economic relationship to his family and the state, non-criminal controls on the behavior of children through the tort law, nor constitutional limits on the allocation of power over children. Family law casebooks take the family, not the child, as the central focus and deal primarily with issues of marriage and divorce. Today only a handful of law schools offer seminars or courses on children and the law, and few lawyers are specially trained in the area. Developing teaching materials can help correct both of these deficiencies.

During the past year Robert Mnookin has begun preparation of materials for a legal casebook which will use both legal and non-legal materials to help students develop an understanding of the complex legal relationships between the child, his family, and the state. The materials will be concerned with how law allocates decision-making power over children and how the triangular

relationship of the child, the family, and the state evolves as the child matures. So that students can become aware of the context within which the law is operating, the book will contain not only extracts from cases, statutes, and other legal documents, but also various psychological, sociological, and anthropological materials.

Symposium on Children and the Law

Robert Mnookin has been developing an issue of *Law and Contemporary Problems* on children and the law and coordinating a concurrent symposium, both of which are in line with and corollary to the intellectual design of his casebook. In addition to an introduction and an article by Mnookin, and pieces by others who are also providing legal insights (Kirp, Marks, Sugarman, Tribe, and Burt), psychological and economic perspectives are being contributed by Arlene Skolnick and David Stern, respectively.

Together, the essays offer a many-faceted description of the multiple interrelationships that link children, parents, and the state, and this interdisciplinary look may provide lawyers with new insights into how other disciplines can play a role in legal analysis. The contents of the Symposium are presented more fully in the section on the Project's publications.

FOSTER CARE

Although the legal system normally gives parents primary responsibility for raising their own children, throughout the nation states have assumed the primary role for some 300,000 children in foster care. These children, who are quite literally the wards of the state, are a minute fraction of the child-population in America. Their plight in society, however, and their "bureaucratic neglect" by the state-parent, compel the Project's concern.

Over the year, Mnookin, Jessica Pers, and Randall McCathren have been concerned with theoretical and practical issues related

to foster care in California. Mnookin has published an article criticizing existing legal standards and suggesting how the law might be improved; a report on the California foster care system, prepared by Pers, will be released shortly; and a monograph on the funding of foster care has been prepared by McCathren. Mnookin and McCathren also wrote model legislation, based on the Mnookin article and on the foster care staff's experience, that would 1) restrict the legal basis for coercively removing children from their home, and require that social services be offered as a less drastic intervention, and 2) insure stability for children, once they have been removed. Legislation based on this work of the Project was introduced into the California legislature, and is discussed in this report's section on the Project's reform efforts to date.

By studying how the state coercively intervenes into the family in this most extreme way, either through the Juvenile Court or the social welfare bureaucracy, and by examining the economic and institutional arrangements made for these children, we have learned a good deal about the general problems of attempting to establish and enforce minimum standards of parental conduct, and about the provision by the state of services normally supplied by parents. As a result of our research, two additional studies, described below, are currently being planned.

1. Empirical Study of the Decision-Making Process In a County Social Welfare Agency

We hope first to provide a solid basis for generalizing about the circumstances that lead to the removal of children over parental objections. Examination of reported legal cases does not provide such a basis; from his preliminary survey, Mnookin has estimated that during the past six years in California there was a reported appellate opinion for only approximately one in every thousand cases which had resulted in a court-ordered foster care placement. We hope also to assess the extent to which the values

of a particular decision maker affect the probability that a child will be removed. Finally, this study should provide information with which to evaluate how alternative legal techniques might be used to control administrative discretion.

2. Voluntary Placement of Children in Foster Care

About one-half of the foster children in the United States are "voluntarily" placed by their parents, are not subject to the jurisdiction of a juvenile or family court, but are just as likely as a child coercively removed to remain in foster care for a substantial period of time.

The Project is planning a study of voluntary placement to explore: Why are children voluntarily placed? How "voluntary" are such placements? Who institutes the process? Are parents threatened with court action if they refuse? What alternatives, if any, are offered to parents before the child is placed? When the parents and the social service agency agree that the child should be placed out of the home, what is done to protect the child's rights? How, if at all, are placements reviewed?

The study will also examine the legal issues inherent in this process and will seek to develop policy recommendations about how the process might be changed to better serve the interests of children and parents.

EDUCATION

Government intervenes in the lives of children most substantially through schools, both public and private, and spends more money on children for education than for any other activity except national defense. We are completing research, related to the governance of schools, which has investigated means by which public schools might be made more responsive to the needs of children and the family.

Project researchers are looking closely at several aspects of

the state's relationship to children in schools, described below.

Political Socialization and Curriculum Control

It is widely assumed that the state, through its public schools, is the best and perhaps the only effective agent for insuring the systematic, uniform, political, and moral education of children. We recognize that there is no such thing as value-neutral education. But if schools inevitably impart values, it seems important to know what these values are. How much insight do teachers have? How congruent are the values imparted in schools with the values of the community which the school serves? How are the choices made among competing sets of values in curriculum planning and textbook selection? Does the state seek to influence and control the content of curricula and instructional materials? Should it? How can such content be influenced and changed by concerned citizens? And what effect do the state's efforts actually have on children's developing values?

The voluminous material on political socialization deals only tangentially with these theoretical and research questions. Most of it does not pose the broader question of how power—in this case, power over the political and moral education of school children—should be shared among children, parents, teachers, school districts, and the state. This is the basic question that Dinah Shelton, Armin Rosencranz, and Professors David Kirp and Mark Yudof each will continue to address.

To supply the necessary background for this task, Shelton has completed a thorough analysis of state law governing curriculum in California schools, and case studies of two different ways in which the state is involved in political and moral education: One is a study of the controversy over the Moral Guidelines and Handbook issued in California, a state effort to direct the content of sex education courses and strengthen discipline through in-

doctrination of values. The other, co-authored, examines the socialization of students—particularly by reference to evidence of sex discrimination in vocational education—into acceptance of traditional sex-typed occupations and roles. Kirp and Yudof also have completed a broad inquiry into the nature and legal implications of sex socialization in the schools, expanding on issues raised in a chapter of their recently published casebook on educational policy and the law.

Rosencranz's initial examination of the politics and economics of the selection of textbooks in California, which found that the state Curriculum Commission is susceptible to influence from publishers and accessible to special interest groups to a marked degree, has written on the politics and economics of textbook selection for both a scholarly journal and a mass circulation publication.

In September 1974, the education project staff began investigating the following general areas that emerged, from their earlier work, as being both crucial and centrally related to the Project's allocational concerns.

- The values of classroom teachers, their attitudes toward political and moral indoctrination, and their role in transmitting political and moral values in the classroom.

Rosencranz will undertake this empirical study for the next two years, seeking to learn how much control teachers have over curricula and the ways—consciously and unconsciously—they go about socializing and indoctrinating their students.

- The ways in which parents and/or children might challenge curriculum mandates.

Shelton will begin legal research into the circumstances under which parents or students have been allowed to withdraw from public schools selectively, i.e., remain in the school, but abstain from one or more of the curriculum requirements.

If the present system of power allocation in the areas of political socialization remains intact, what can parents and children do to influence and change the content of schooling? Yudof and Kirp are currently preparing an article on the indoctrination of the young in a free society and are also assessing the constitutional limits of the state's power to socialize children.

- The effect of decentralizing decision making over the content of curricula and instructional materials.

Through interviews and from analysis of decisions about the selection of instructional instruments (such as books, audio-visual, and multi-media materials), Rosencranz will seek to discover the factors that govern a district's choice of particular materials, viz. cost, evaluation results, special interest group advocacy, and "learner verification" (determining impact of materials by comparative testing of students' performance).

- How the writers of instructional materials are recruited, and how more enlightened and balanced materials could be produced and could compete fairly in the highly competitive school book industry.
- The minimum legal requirements for political and moral education that are held and imposed in common by state laws and school district regulation across the United States.

Compulsory Education

Compulsory school attendance is one of a variety of mechanisms the state might adopt to insure the education of the young, each of which implies rather different apportionments of power (and responsibility) over the education of children. David Kirp and Stephen Sugarman will lead the Project's reevaluation of the compulsory attendance system in two ways.

1. They plan to produce a book or a series of law review

articles dealing with possible constitutional attacks on compulsion laws, methods for statutory reform, and the policy issues raised by such changes. The possible constitutional arguments are wide ranging, and it is conceivable that a constitutional assault may be launched on compelling school attendance at all. The likelihood—and the desirability—of such an assault will be appraised, with the authors exploring whether changes in the compulsion laws themselves might encourage the emergence of options, or whether affirmative legislative programs are needed.

2. They plan also to coordinate and edit a volume dealing with various forms of state regulation of education—compulsory attendance laws, curriculum control, the effects of labor laws on school attendance requirements, credentialing requirements, and so on.

Classification: How Decisions are Made

David Kirp will continue his work on the ways schools classify children through ability groupings, special education programs, exclusion, and IQ tests, building on his earlier study of the constitutional and policy implications of the schools' sorting practices (published first for a legal audience, and then written to appear in publications for educational policy makers and people otherwise concerned with educational policy).

Kirp's further work on the impact of due process review of contested school placement decisions will be done with Peter Kuri-loff¹ and William Buss,² his co-authors of a recently published law review study of legal reform and special education.

The primary data for the ongoing study are transcripts of all

¹Assistant professor of education, University of Pennsylvania.

²Professor of Law, Iowa Law School. Both researchers are funded by the National Institute of Education.

Pennsylvania due process hearings and appeals conducted between June 1972 and January 1974, pursuant to the consent agreement in *PARC v. Commonwealth of Pennsylvania* (1972). Kirp's analysis will seek to determine what kinds of disputes were subject to disagreement, and hence review; what factors—availability of public resources, presence of an attorney and so on—affected the outcomes of the hearings; the effect of the hearings on program placement, both for the individually affected children and for the class of children with similar handicaps.

School Governance

During the past 50 years, American education has been characterized by two major movements: the centralization of decision making and the professionalization of the decision-making apparatus. As power over and responsibility for education have become vested in a professional "management" bureaucracy, not only has the public education enterprise become increasingly less open to parental concerns, but the growing size of the schools, the inability, frequently, of clients to express their interests and desires, and professional dominance have tended to stifle diversity among the public schools.

Voucher Systems

The way in which funds for education are allocated may, however, influence the diversity of school offerings. John Coons, Stephen Sugarman, and Jack Osman have been investigating voucher systems, which would give families the purchasing power to choose among a broader range of schools than those the state subsidizes and calls "public schools." Coons and Sugarman, in an article on vouchers for public schools, have defined such a system as a mechanism for severing the connection between the family residence and the school. And Sugarman has, in press, a law journal article which examines a myriad of related issues that arise from a

consideration of vouchers, such as factors of race, finance reform, and a variety in programs, among others.

Coons and Sugarman's forthcoming book, *Choice*, discusses a spectrum of possible educational choices and explores the implications of permitting allocation of such choice to the state or the family. The question they deal with is whether regulated family choice systems are plausible alternatives that deserve substantial experimentation.

School-Site Management

Another way to increase the diversity of school offerings may be to change the power relationships between the state, local school districts, and the individual school, and to give greater budgetary power to the public school principal. James Guthrie and a number of his students have been studying school-site management to determine how alterations within the public school system might affect the way in which schools are managed and the consequent degree of consumer satisfaction. The publication which will result from this work will focus on the means by which public schools might be made more responsive through alterations in governance. (In a recent published article, Guthrie analyzes the consequences of the shift of school policy decisions to the state level.)

To develop empirical evidence on the effects of giving school principals more authority, Guthrie and staff, having completed their study of the Oakland School District's generalized budgeting procedures, are comparing a sample of districts that has decentralized decision-making procedures with a sample that has a traditional system. They are concerned with such factors as client satisfaction, teacher morale (as measured by teacher turnover and use of grievance mechanisms), and changes in expenditure patterns after budget decentralization.

These researchers are concerned with examining policy imple-

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mentation of reforms at the state and local levels, and the group has been actively involved with efforts in Florida, Oregon, Oakland, and San Francisco to implement school-site management. Guthrie's volume on school governance will synthesize this practical experience with theoretical and empirical findings.

Accountability

The Project has been concerned with surveying accountability mechanisms, legislative and administrative efforts, and various kinds of legal approaches to the problems illustrated in the cases of non-English speaking children whose sole instruction in the public schools is in English; those who are graduated from high school, but claim to be functionally illiterate; and those who are considered educationally handicapped, and whose enrollment is therefore limited by statutory provision to 2 per cent of a district's total enrollment.

Within the year, Stephen Sugarman has published two articles on the issue of accountability. In one he explores the legal theories upon which a suit for damages might be brought by a non-learner against his public schools, and develops some alternatives to reform routes to individual accountability, such as through the political process. In the other, he explores the question of the right of non-English speaking children to reasonable efforts by the school to deal with their language handicaps.

Public Spending on Schooling

The analysis of school spending being made by Osman and Grubb deals with 1) the determinants of variations among California's unified school districts in total current expenditures, instructional expenditures, and local revenues generated per child, and 2) California bond and tax elections. The researchers are addressing themselves to a spectrum of issues (among them, for example: the impact of federal and state aid programs on local

revenue-raising and spending; factors that influence voter turnout in school elections; the effect on school spending of large numbers of non-users in a district, such as the elderly and/or families whose children are in private schools), and will explore the implications of their findings for public policy and for specific legislation that would revise both the system of funding capital and the school districts' spending patterns.

Education and the Labor Market: Credentialing

Formal schooling accomplishes a number of objectives in addition to stimulating the cognitive development of students; it is society's chief vehicle for the political and moral socialization of the young, and both secondary and higher education act to sort individuals for the labor market on the basis of their educational achievements. Employers, unions, employment agencies, and government hiring officers are increasingly setting minimum prerequisites for jobs which include educational attainment as measured by years of formal schooling, degrees, diplomas, and certificates. This phenomenon, "credentialing," is the subject of a growing body of literature which has developed along two thematic lines.

The first body of research deals with quantifying "unnecessary credentialing" (when educational requirements are found to exceed the particular skill and training requirements for the job, and thus are economically inefficient). The second attempts to explore a future which does not distribute employment according to such credentials.

It is evident that there are various legal theories that could be developed to challenge the use of educational credentials as job selection devices, but virtually no published literature addresses these theories in the context of credentialing. The most useful legal analysis has been developed during investigations of the legal infirmities of employment testing, and occasionally this analysis is applied to educational credentialing, but only tangentially.

David White, a staff attorney for the Project, has been identifying 1) the ways in which the use of educational credentials as a screening device for employment has destructive consequences for individuals, the educational system, and the labor market, and 2) the variety of legal tools available to eliminate the use of credentialing when it is inessential. He will produce a major law review article particularly detailing the application of Title VII of the Civil Rights Act of 1964 to credentialing, and he will further disseminate this information through the more popular press to practicing lawyers, businessmen, governmental licensing agencies, and educators.

White will also write a series of law review articles examining the factual and procedural requisites for a successful assertion of each legal theory potentially applicable to credentialing, as well as a comparison of the merits and pitfalls each approach presents.

Once the scope and direction of successful legal challenges on credentialing are articulated, the desirability of such challenges can be better contemplated, and those dissatisfied with current credentialing practices will be able to identify the limits of legal challenge to stimulate more efficient and equitable labor market decisions.

Norton Grubb will also formulate some alternative hypotheses that could account for the existence of credentialing, and will run tests designed to indicate the validity of each one (making use of the Michigan Survey of Income Dynamics and possibly the 1970 census data).

A grant from The Spencer Foundation will make it possible for Grubb and White, with Coons as principal investigator, to carry out and extend the credentialing study in various critical ways—among them the inclusion of statistical analyses of the effect of credentialing on the labor market, and a conference on credentialing which will draw participants from across the country.

Reform Efforts

Because the Childhood and Government Project is fundamentally concerned with policy, we have been and will continue to be involved in reform efforts of an immediate sort. Our experience thus far suggests that such activities strengthen our basic research; significantly contribute to our ability to train professional lawyers, educators, and public administrators; and fulfill part of the university's obligation to perform public service.

We recognize that our services must be available to the widest possible range of interested groups and that our participation in legislative and administrative activities must conform to specific guidelines required for organizations maintaining tax exempt status. The Project does not, however, conceive of itself as a service center, offering technical assistance to all those involved in the formulation of public policy having to do with children. There is a wide range of activities relating to children about which we have no special competence; our resources, moreover, are limited.

For these reasons, we feel a special responsibility to choose carefully the matters in which we do participate.

Our mode of operation, and our perception of our role can be illustrated by our activities during the initial grant period (1972-1974). Two standards were of utmost importance: First, we became involved in litigation and in drafting model legislation only in areas intimately connected with our research activities. Second, our role was strategic—we chose only issues involving difficult and novel questions, where we could make a special contribution. These two themes, which will continue to guide our reform efforts, can be illustrated by our work in school finance and foster care.

SCHOOL FINANCE REFORM

San Antonio Independent School District v. Rodriguez

The Project's first product was an amicus curiae brief by John Coons and Stephen Sugarman for the *Rodriguez* case. This brief rested on the foundation of their book, *Private Wealth and Public Education*, and argued for the legal principle first established in the *Serrano* case: educational spending should not be a function of local property wealth. By a 5 to 4 decision, the United States Supreme Court decided in *Rodriguez* that the Equal Protection Clause of the Federal Constitution does not prohibit school finance mechanisms in which the amount spent on public education depends on local property wealth. The result in *Rodriguez* was, of course, a disappointment and a set-back for school finance reform through federal litigation. But the Court's opinion suggested that absolute deprivation of educational opportunity could violate the Federal Constitution. And additionally, the possibility of litigation based on state constitutional provisions was still open. A post-*Rodriguez* litigative strategy had to be developed.

The Project played a critical role in developing that strategy, first by helping plan the course of school finance litigation, which

was then pending in more than 40 states. After the Supreme Court's decision, advice was sought about what legal theories were still available, which cases held the most promise, etc. Coons, Benson, Sugarman, and Mnookin met often and at length with attorneys from the Lawyer's Committee for Civil Rights to help answer these post-Rodriguez questions, and Coons, Sugarman, and Benson were speakers at a special Lawyer's Committee Conference on this topic in Chicago, April 1973.

A critical aspect of the strategy was the formulation of legal arguments based on state constitutional provisions. The Project helped formulate these arguments and participated in litigation in various states. Our efforts have borne fruit in a number of states since the adverse ruling in *Rodriguez*, showing the value both of the federal system and of the persistence of resourceful reformers.

Serrano v. Priest

Several of the Project's principals began the fight for school reform in California with the now famous *Serrano v. Priest* case. On remand from the California Supreme Court, the *Serrano* case was re-tried by a Superior Court following *Rodriguez*. To this trial, the Project contributed significantly: Coons, Mnookin, and Sugarman submitted an amicus brief to the trial court, arguing that *Rodriguez* was not controlling, and that the California constitution provided an independent ground for the legal conclusion earlier reached by the California high court. Benson, Guthrie, and Coons testified as experts during the trial, and Paul Goldfinger assisted in the preparation of quantitative evidence showing the operation of the present California system.

On April 10, 1974, the Superior Court ruled in favor of the plaintiffs, holding that the present system of finance in California violated the state constitution.

We have not adopted the lawyer's habit of equating implementation solely with litigation; we have also been concerned with

legislative and administrative change.

Our development of a model of school finance reform affords one example of this kind of commitment. Now completed, this legislation would both insure that educational spending was not a function of property wealth and also allow local communities to exercise some choice about the total level of their spending on education. The Project's model served as the basis for legislation introduced as S.B. 2360 by California State Senator Albert S. Rodda (D-Sacramento County), Chairman of the Senate Education Committee. Tabled in committee, the bill will be re-considered for passage in the 1975 regular session.

School Finance Reform in Other States

While this protracted litigation proceeded in California, the Project participated in reform efforts in several other states. James Guthrie testified as an expert witness in the trial of *Robinson v. Cahill*, where the New Jersey Supreme Court relied on the state constitutional requirement of a "thorough and efficient system" of public education to strike down the previous system of local finance. He also served as a consultant to the Oregon State Legislature to devise a school finance plan which would satisfy a test of fiscal neutrality for that state. Coons, Sugarman, Mnookin, Marks, and David White submitted amicus curiae briefs and helped develop legal theories for state cases in Arizona (*Hollins v. Shofstall*), Montana (*Woodahl v. Straub*), Oregon (*Olsen v. Oregon*), and Washington (*North Shore School District No. 417 v. Kinnear*). In the Washington case, Coons appeared twice as a witness, helped organize and prepare the expert testimony, and later argued the case on behalf of the plaintiffs in the Washington Supreme Court. Decision on this case is expected shortly.

OTHER EDUCATIONAL REFORM

Another aspect of our role has been related to developing

and formulating new litigative strategies attacking inequalities in educational distribution. David Kirp has been involved in the drafting of a new California Master Plan for Special Education which would radically alter the ways in which handicapped children are treated. And the Project became actively involved with the questions of a school district's responsibility to children who cannot speak English (*Lau v. Nichols*) and to children who cannot read (*Peter Doe v. Galileo High School*).

Lau v. Nichols

Stephen Sugarman, Raymond Marks, David Kirp, Robert Mnookin, and Mark Yudof, together with several law students, prepared an amicus curiae brief for the United States Supreme Court in the case of *Lau v. Nichols*, which concerned a school's responsibility to teach Chinese-speaking children to read and speak English so that they could benefit from public school instruction conducted in English. Our brief argued that the school district functionally excluded these children from school and thus violated their constitutional and statutory rights. (See Sugarman and Widdess, *California Law Review*, Jan. 1974, for a Commentary that grew out of the Project's work on this brief.) Subsequently, in Spring 1974, in an opinion written by Justice Douglas which made use of language suggested by the amicus brief, the United States Supreme Court unanimously ruled that the school district had violated the rights of these students.

Peter Doe v. Galileo High School

The nation's first suit based on a theory of educational malpractice, *Peter Doe v. Galileo High School, San Francisco Unified School District and State Department of Education*, was brought by a San Francisco high school graduate who claims that the school was negligent in graduating him even though he could not read. Since negligence theory might provide a basis for individual

accountability, the Project sponsored several law students in a survey of possible accountability mechanisms and alternative legal approaches to the problems illustrated by the *Peter Doe* case. Stephen Sugarman consulted at length with the lawyer for Peter Doe, addressed numerous groups on the subject, and has written on the case extensively, both in a scholarly journal and one more widely read and addressed primarily to teachers.

On September 13, 1974, the California Superior Court, as anticipated, granted the school district's motion to dismiss. Since the underlying theory of the case is revolutionary, it was not expected that a trial court would be likely to support a change of this sort, and the Project is prepared to give aid in an appeal which, it is hoped, will eventually force the California Supreme Court to confront the issue.

In the meantime, the *Doe* case has generated national interest in educational consumerism, teacher accountability, and other bases for establishing the right to education.

Wood v. Strickland

The Project has entered an amicus curiae brief, written by Yudof, Marks, Mnookin, and Tribe, in the United States Supreme Court, in the case of three high school girls expelled for a semester for spiking punch. The issues addressed in the brief relate to whether schools can mete out such punishment without observing the procedural requirements of notice and hearing.

FOSTER CARE REFORM

At the request of the California Children's Lobby, Robert Mnookin and Randall McCathren prepared model legislation to alter the foster care system in California. Introduced into the California legislature by Senator Arlen Gregorio (D-San Mateo) in January 1974, as S.B. 1485, The Family Protection Act passed both houses, only to be vetoed on September 27, 1974, by

Governor Ronald Reagan. Senator Gregorio has announced that he will re-introduce the bill in the 1975 session of the legislature.

Based on an article of Mnookin's, The Family Protection Act represents a fundamental reform of foster care. It is premised on the belief that children are placed in foster care unnecessarily, and that many children remain in foster care too long. Under the proposed legislation, children would be removed from parental custody coercively only if there were a substantial danger to their health, and reasonable social services could not protect the child within the home. The legislation mandates various family protective services both to make removal unnecessary in many cases that today lead to placement, and in instances where the child must be removed, to help the parents correct their deficiencies so that the child can be returned home promptly.

For those children who cannot be returned home after 18 months, the legislation requires that the court and social welfare department act to provide the child with a stable environment by exploring the availability of adoption or legal guardianship. Finally, the legislation would regulate "voluntary placements" for the first time, both to insure that parents understood the seriousness of a decision to place their child in foster care, and to see that the children so placed would not become lost in the limbo of foster care.

In an extension of our interest in legal problems related to the issue of foster care, the Project filed amicus curiae briefs in four Juvenile Court dependency cases: *In re B.G.* (California Supreme Court); *In re Raymond G.* (California Supreme Court); *In re Lindsey Lewis* (1st District Court of Appeal-Habeas Corpus Action); *In re Constance and Deanna P.* (1st District Court of Appeal, California).

* * *

During the coming three years, we believe the Project can play an increasingly significant role in areas such as school finance, foster care, educational reform, and local planning. As in the past, our participation in litigation will principally be that of amicus curiae. The primary responsibility for conducting litigation on behalf of a client will necessarily devolve upon attorneys for the particular client-groups involved. We will participate in cases only where there is the opportunity to develop important new law and where our special expertise may prove significant. Within the limits of our available resources, services and material produced by Project staff will be made available to all interested parties.

SUMMARY OF HIGHLIGHTS OF REFORM EFFORTS

Litigation

I. School Finance

Amicus Briefs

San Antonio Independent School District v. Rodriguez (United States Supreme Court). Sought to have the rule of *Serrano v. Priest* applied nationally as a matter of federal constitutional law.

Shofstall v. Hollins (Arizona Supreme Court). Sought to have Arizona school finance system, which was based on district wealth, declared unconstitutional under Arizona Constitution after adverse ruling in *Rodriguez*.

Serrano v. Priest (in California trial court on remand). Argued to sustain result in California Supreme Court after evidence heard; argued that injury was shown under California law. Members of Project staff also participated in trial (Coons, Benson, and Guthrie).

Consultation

Woodahl v. Straub (Supreme Court of Montana). We were consulted and gave supporting legal memoranda and assistance to the Montana Attorney General who was seeking to sustain new school finance legislation in Montana against the attack that it deprived wealthy districts of equal protection of the law.

Olsen v. Oregon (Circuit Court of Wayne County, Oregon). Suit seeking to apply the rule of *Serrano v. Priest* to Oregon.

North Shore School District No. 417 v. Kinnear (Washington Supreme Court). Suit seeking to apply rule of *Serrano v. Priest* to Washington. Coons testified and organized expert testimony at trial; later argued the case, representing the plaintiffs before the Washington Supreme Court.

Robinson v. Cahill (New Jersey Supreme Court). Suit requiring finance reform pursuant to the state constitution's mandate for "A Thorough and Efficient School System." Guthrie testified as expert witness.

2. Accountability and Classification

Amicus Briefs

Lau v. Nichols (United States Supreme Court). Argued that schools had an affirmative duty to give special language help to Chinese-speaking students.

Consultation

Peter Doe v. San Francisco Board of Education (Superior Court in San Francisco). Helped plan negligence action against Board of Education for high school graduate who

could only read at 5th grade level.

California Association for the Retarded v. Riles (Superior Court, San Francisco). Suit challenging denial of education to mentally handicapped children patterned after *PARC v. Commonwealth of Pennsylvania*.

David P. et al. v. State Department of Education Civil Act. No. 658 826 (Superior Court, San Francisco County). Suit challenging state law limiting enrollment in educationally handicapped program to 2 per cent of student population.

3. Dependency Cases—Juvenile Court Issues

Amicus Briefs

In re B.G. (California Supreme Court). Issue of whether court can base jurisdiction to intervene in family on a best interest test rather than a fitness test.

In re Raymond G. (California Supreme Court). Argued that due process requires new notice and new hearing where new grounds for jurisdiction are asserted.

In re Lindsey Lewis (1st District Court of Appeal, California—Habeas Corpus Action). Argued that juvenile court lacked power to place ward of court in state mental hospital as a "voluntary patient"; skipping due process hearing violated minor's rights.

In re Constance and Deanna P. (1st District Court of Appeal, California). Argued that juvenile court which found mother fit could not deprive a mother, engaged in a lesbian relationship, of her children on the ground that it would be better for the children to live elsewhere; the

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state lacked jurisdiction; sought to apply Gault to dependency proceedings.

4. Education—Due Process for Students

Amicus Brief

Wood v. Strickland (United States Supreme Court). Issues addressed relate to whether schools can mete out punishment (such as expulsion) without procedural requirements of notice and hearing.

5. Miscellaneous

Nielsen v. Board of Regents (Superior Court, San Francisco). Question of whether parents alone, or anybody, can consent to non-beneficial medical experimentation on children. We participated in discussion of pleadings and strategies.

Legislation

1. Model State School Aid Bill

The bill adopts a variable foundation program in which each district choosing a revenue amount equal to the foundation program or any amount 50 per cent greater than the foundation amount would receive funds from a prescribed tax rate equal to the funds and average wealth district would reap from that tax rate. Over time that prescribed local tax rate will decrease as a statewide property tax is phased in.

2. Model Circuit Breaker Bill

Proposes a "circuit breaker" that would relieve the excessive property tax burdens of renters and homeowners

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with incomes of less than \$10,000 per year.

3. Foster Care Bill

Would change the legal basis for coercively removing children from their parents, would provide social services in lieu of removal, would provide social services to reunify families temporarily separated, and would insure stability once it has been definitively determined that permanent removal is a necessary recourse.

Education, Dialogue, and Training

An important part of the Project's work, which is closely related to our reform efforts, involves bringing the issues with which we are concerned to the attention of other academics, policy makers, and the public at large.

EDUCATION AND DIALOGUE

The Project will continue to relate to interested academics, offering them assistance in their teaching, writing, and advisory functions, primarily through publications. Our activities over the next three years are planned to yield a substantial body of scholarly work.

The Project considers it equally important, however, to reach what might loosely be described as the decision-making community—not only elected and appointed officials and their staffs, but many other school-related and social welfare-related persons. Members of the Project will therefore continue to do a considerable

amount of speaking at conferences, and to legislative and other administrative groups. This is particularly important for the populations involved with education and child welfare.

Because there is also a critical need to communicate not only with policy makers and administrators, but also with practitioners and the lay public, we will continue the publication and conference pattern we have established—to publish in both the scholarly journals and the more “popular” publications that reach a wider readership, and to meet and exchange information and views with local, state, and international groups.

Publicizing the *Rodriguez* Decision

One case in point was the Project's activity in disseminating information about the *Rodriguez* case, and its attempt to lay the implications of the Supreme Court's school finance decision before as many different kinds of audiences as possible. Project members participated in a variety of public forums, enlisted the interest and services of radio and television, wrote extensively about the case for the law and scholarly journals, and published numerous articles in such publications as, for example, *The New York Times*, *The Christian Science Monitor*, *Commentary*, *Learning* magazine, and *Saturday Review/World*.

The Project and the Public

Since the Project's inception, its members have interpreted their mandate as calling for them to provide consultation and public service, in addition to information. This they have done seriously and systematically. Aside from the reform activities described earlier, the instances of their various involvements are too numerous to list completely, but some examples are given below. Project staff have:

... conducted sessions of N.I.E. meetings of the Teacher Leadership Conference

. . . chaired a session on New Methods of Research on the Allocation of Educational Resources at the annual meeting of the American Research Association

. . . presented a keynote address at the National Conference on Community Participation in Education

. . . worked with the California State Assembly Committee on Education for the People

. . . monitored the 1973-74 textbook selection and adoption process in California

. . . participated in the California Legislative Symposium on Children and Youth

. . . conducted formal interviews with members of the California Curriculum Commission and the Board of Education

. . . met with activist lawyers to explain the vagaries of the textbook selection process and to discuss methods of intervention, including political pressure and legal action

. . . addressed both the Republican and the National Governors' Conferences, National Legislators' Conference, annual symposium of the Harvard School of Education, Child Welfare League, Institute for Juvenile Court Judges and Referees, Children's Council of Alameda County, Annual Legislative Council of the National Council of Jewish Women

. . . participated in the Licensing and Foster Care Workshop sponsored by the Langley Porter Neuropsychiatric Institute, San Francisco

. . . served on the Oakland Community School Development Committee

The Project Abroad

Professor John Coons took innumerable opportunities to

further the Project's interests, during his sabbatical year in Europe, through both personal and professional avenues. To mention only two of the more immediate and tangible yields of his efforts:

1. The O.E.C.D. has invited the Project to participate in its Paris conference on school finance. David Kirp will speak for the Project.

2. Working sessions with Dr. Ingo Richter in Berlin established tentative plans for a joint Berkeley-Berlin conference on law and education. A number of other European countries also would be involved.

The Windsor Conference (June 18-21, 1974)

The Cumberland Lodge, Windsor, Berkshire, England

Coordinated by Director Robert H. Mnookin, the Project sponsored a conference abroad on the distribution of opportunity and resources in primary and secondary education. The thirty participants—fifteen from the United States (ten of whom are directly related to the Project), fourteen from England, and one from Germany—represented a wide spectrum of institutions, posts, and disciplines.

In addition to the Project members who took part, the American component included officials concerned with education and research from the Ford Foundation and the Carnegie Corporation, an economist from the University of California's Santa Barbara campus, and a professor of education based at the University of California's Study Center in London.

The English contingent included a member of parliament; faculty, researchers, and department heads in economics, social sciences, education, and mental health from the universities of Oxford, Cambridge, London, Brunel, the London School of Economics and Political Science, the Max-Planck-Institut, and the North East London Polytechnic; several headmasters; the editor of *The Times Educational Supplement*; a representative of a child

poverty action group; and other leaders in British education.

The meetings, led by Project staff, were devoted to papers on the three broad topics that are central to the Project's concerns: Who does and who should speak for the children when it comes to education; the various aspects of the allocation of financial resources for children's education; and the question of the role of the professionals versus the public with respect to the control of the schools.

TRAINING

Part of the mission of the Childhood and Government Project is to train and equip Berkeley graduate and law students for crucial future policy roles. From the outset, Project members have designed new ways of preparing young lawyers and social scientists for these roles and developing new courses—academic and clinical—toward this end.

The law school now offers a survey course on law and educational policy taught by Professors Kirp and Sugarman, which is taken not only by law students, but also by students from the School of Education and other parts of the university. New seminars have been offered on Schools and Money (Sugarman) and Student Classification (Kirp), and in Spring 1975, Sugarman will also give a new seminar on compulsory education and vouchers.

The Project has sponsored a student-initiated course on juvenile law, this past academic year a new course on Children and the Law (Mnookin) was added to the course catalogue of the University of California, Berkeley, and Weber presented a course on Public Policy Analysis of Governmental Programs for Children in the Graduate School of Public Policy. As a complement to this successful impact on formal coursework, the Project sponsors a continuing series of weekly informal seminars.

Significant numbers of law and graduate students also have been involved in the Project's various research enterprises. Students

have been research assistants and have also actively participated in the preparation of amicus briefs and model legislation. Our foster care staff has included law students and graduate students in psychology, and the work in school finance involved students from the Schools of Education and Law, and graduate students in city and regional planning, economics, and political science.

Administration and Project Personnel

Robert Mnookin retired as the Project's director on September 30, 1974, but is, of course, remaining as a principal investigator. He will be succeeded by John Coons, who will also coordinate the writing of the Project's "big book."

The Project will be joined this year by an associate director who will assist Professor Coons with day-to-day administration, and will have primary responsibility both for implementing the Project's training programs for graduate students and for raising the public's interest in the issues central to the Project's function.

Other staff changes consist, in the main, in shifts: Jessica Pers, coordinator of the foster care study, having become a first-year student at the law school, University of California, Berkeley, has accordingly adjusted her commitment to the Project, and will be a part-time consultant. Randall McCathren, a research assistant to the foster care study while he was in law school, graduated in June 1974, and is now a part-time consultant. Paul Goldfinger,

who was one of the Project's staff analysts, will become a part-time consultant, and Gareth Hoachlander and Elliott Medrich will give their full-time efforts to principal investigator Charles Benson's work on the role of children in the public sector.

The Project has continued to invite "visiting scholars" to spend time with us in Berkeley. From January 1974 through August 1974, Professor E. G. West, an economist from Carleton University, Ottawa, was in residence at the Project. During the summer of 1974, we had several visitors, all of whom are listed in the section that describes the Project's staff.

PUBLICATIONS

The following books, monographs, and articles were prepared by reason of the initial grants made by The Ford Foundation and the Carnegie Corporation to the Childhood and Government Project.

BOOKS

Benson, C.S., Goldfinger, P., Hoachlander, G., & Pers, J.S.

Planning for Educational Reform: Financial and Social Alternatives. New York: Dodd, Mead, 1974.

The authors argue that school reform must involve more than alteration of the amount of educational dollars available. They are concerned that schools should cease to reflect existing disparities in wealth and income and that racial and social integration should be fostered. They propose methods for insuring that poor people be protected from reform efforts that might have unintended consequences.

Benson, C.S., & Hodgkinson, H.L. (with assistance of Pers, J.S.).

Implementing the Learning Society: New Strategies for Financing Social Objectives. San Francisco: Jossey-Bass, 1974.

The authors define the essential social objectives of higher education: producing trained manpower efficiently when and where it is required; creating broad, equitable plans for financing; and guaranteeing a college education for all who can benefit from it. They analyze the shortcomings of the new proposals for achieving these goals, of existing programs, and of the most important earlier studies.

Coons, J.E., & Sugarman, S.D. *Choice*, in preparation.

An exploration of the allocation of educational choice between the state and the family, from the perspective of the interests of children.

Duffy, P.S., & Kirp, D.L. *School Psychologists, Counselors, and the Law*, in preparation.

Cases and materials chosen to give educators and behavioral scientists an understanding of the legal issues that comprise this field of litigation.

Grubb, W.N., & Michelson, S. *States and Schools: The Political Economy of Public School Finance*. Lexington, Massachusetts: Heath, 1974.

Studies intra-state inequalities in school resources, including an historical section, some theoretical comments, a little on the politics, and a statistical model describing district responses to income and price effects in Massachusetts.

Kirp, D.L., & Yudof, M. *Educational Policy and the Law*. Berkeley: McCutchan, 1974.

A casebook, intended for education and law students (as well as practitioners), which examines the impact of law on educational policymaking. The casebook treats issues of liberty and equality, and poses two types of questions: Does a given law reform make legal or constitutional sense? Does it make educational policy sense? Topics discussed include: compulsion and state regulation of schooling; the lives of students—and teachers; equal educational opportunity, defined in racial, sex-based, and resource terms; and student classification.

Lazerson, M., & Grubb, W.N. (Eds.). *American Education and Vocationalism: A Documentary History, 1870-1970*. New York: Teachers College Press, Columbia University, 1974.

A history of the Vocational Education Movement, 1890-1920, which led to federal support for vocational education. Examines some of the precursors to vocational education and the continuities in its development since 1920. The vocational educational movement is argued to be important because it created the kind of school system—particularly in the high school—that we now have. The history is severely critical of vocational education as unimportant for job preparation, and important only for

class and racial segregation. The most important relevant documents are included.

Mnookin, R.H. (Ed.), *Children: Who is Responsible?*, in preparation.

A collection of the major articles prepared for the symposium law review issue described at the end of the Publications section. Will include an introduction.

Pers, J.S., et al. *Foster Care in California*. Berkeley: Institute of Governmental Studies, University of California, in press.

Ms. Pers and a team of graduate students gathered information on the California foster care system through interviews with social service and probation department personnel in several counties throughout the state. The final report will include: an historical analysis of the foster care system; the state and federal roles in foster care; the role of probation departments, social welfare departments, and the juvenile court in the process; the licensing and selection of foster homes, group homes, and institutions. The book highlights problems in the system's current operation and suggests methods for improvement.

Skolnick, A. (Ed.), *Children in Society*. Boston: Little, Brown, in preparation.

A collection of readings on child development.

ARTICLES

Benson, C.S. Developing a Workable Response in Education Finance to *Serrano v. Priest*. *Education and Urban Society*, 1973, V(2), 211-222.

Discusses some of the main problems that arise when simple solutions to the *Serrano* issue are put forward, such as: how to treat property rich districts that are enhanced by low income households and how to consider the different kinds of incentives laid on rich and poor school districts to transfer functions as between school departments and municipal departments.

Benson, C.S. The Economic Context. In *The Elementary School in the United States*, 72nd Yearbook of the National Society for the Study of Education. Chicago: University of Chicago Press, 1973. Pp. 198-217.

Suggests how to compute economic returns to the quality of primary education.

Benson, C.S. Financing Public Education. In J.A. Kelly (Ed.), *Rethinking Educational Financing*, Quarterly Sourcebook No. 3. San Francisco: Jossey-Bass, 1973. Pp. 23-27.

Addressed to the effects of proposed school finance reforms upon the opportunities for the poor to select their place of residence and thus the mix of public services they prefer.

Benson, C.S. Productivity and Collective Bargaining in Higher Education. In *Proceedings of the 25th Anniversary Meeting of the Industrial Relations Research Association*, 1973. Pp. 213-220. (Republished: summarized in U.S. Department of Labor *Monthly Labor Review*, 1973, 96(5), 33-34.)

The theme is that collective bargaining will radically change the nature of incentives in faculties of major universities with the result that productivity in instructional functions is likely to be enhanced.

Benson, C.S. Strategic Alternatives and Suggestions for Allocation of Educational Materials. In *The Mohonk Conference*, report of a symposium. New York: National Book Committee, 1973. Pp. 39-46.

Examines the financial tradeoff in the education programs of developing nations as between using print or advanced education technology such as computer assisted instruction and instruction by television.

Benson, C.S. As I See It. In American Association of School Administrators, *Christopher Jencks in Perspective*. Arlington, Va.: The Association, 1973.

A brief critical essay that raises questions about the quality of evidence Jencks brought to bear on the distribution of education resources among schools.

Benson, C.S. How to Beat Serrano: Rules for the Rich. *Saturday Review/World*, 1973, LV(50), 35-36.

A satirical article in which the various means by which the intent of the *Serrano* decision could be subverted.

Benson, C.S. Observations of Finance of Education. *Thrust*, Journal of the Association of California School Administrators, 1973, 3(2), 13-17.

Raises questions about the interrelationships between the existing system of financing education and residential segregation.

Benson, C.S. The Transition to a New School Finance System. In J. Pincus (Ed.), *School Finance in Transition: The Courts and Educational Reform*. A RAND Educational Policy Study. Cambridge: Ballinger, 1974. Pp. 151-175.

Attempts to explore in some depth the criteria of socially effective reform in education finance.

Benson, C.S. Economics and Education. *Social Science Quarterly*, Sept. 1974, in press.

Benson, C.S. Educational Outcome Measurement and External Sources of Finance. Paper presented at international conference on education, AID, Addis Ababa, April 1974.

Benson, C.S. Distribution of Education Reviews: Questions About Centralization, Decentralization, Categorical Grants, and Related Matters. Paper presented at international conference on education, AID, Djakarta, July 1974.

Benson, C.S., Goldfinger, P.M., Hoachlander, G., & Pers, J.S. Tax Limitation: Is It Worth It? In *Tax and Expenditure Limitation by Constitutional Amendment*. Berkeley: Institute of Governmental Studies, University of California, 1973. Pp. 29-45; 58-59.

An analysis of the proposed California Tax and Expenditure Limitation

Initiative, defeated in last November's election. The authors note problems in the governor's proposal, with special emphasis on the effect of the initiative on public education in California and on the workings of the legislative process.

Benson, C.S., with Blumenthal, I. The Political Economy and Educational Reform in the U.S.S.R. Paper prepared for the International Bank for Reconstruction and Development, 1974.

Benson, C.S., with Guthrie, J. Legally Imposed School Inefficiency: Can the Laws of Learning Pass the Test of Time? Paper prepared under National Institute for Education sub-contract for Prof. Myron Lieberman, City University of New York, 1974.

Coons, J.E. Financing Public Schools After "Rodriguez." *Saturday Review/World*, Nov. 9, 1973, 44-47.

Discusses the aftermath of school finance reform since the Supreme Court rejected the *Serrano* principle as constitutionally mandated. The alternatives explored are through state litigation, such as the New Jersey Supreme Court's decision to reform on state constitutional grounds. It is suggested that major reform through the state process may also come.

Coons, J.E. The High Court and Its Three R's: Race, Religion, and Rodriguez. *The New York Times*, Jan. 16, 1974. (Republished: *N.Y. Times Education Supplement*, in press.)

A survey of 1973 Supreme Court decisions affecting public and private schools: *Keyes v. School District No. 1*, the Denver, Colorado desegregation case; *Rodriguez v. San Antonio*, challenging the Texas method of financing public schools; and a series of cases involving indirect state aid to private schools.

Coons, J.E., & Mnookin, R.H. Serranophobia. *Commentary*, 1973, 55(2), 25-27.

Responding to claims made by Moynihan (*The Public Interest*, Fall 1972)

and Finn and Lenkowski (Commentary, September 1972), the authors challenge the notion that the court should have no role in correcting the deficiencies in the finance of education. They explain that *Serrano* will hurt the poor and be regressive and wasteful.

- Cooms, J.E. Fiscal Neutrality. Introduction to Symposium on School Finance. *Journal of Law and Contemporary Problems*, in press.

Provides a critical analysis of the *Serrano* and *Rodriguez* decisions and a discussion of the arguments in favor of and against "fiscal neutrality" in public education. Makes some projections of future action on school finance issues.

- Freedberg, L. Useless Children? Anthropological Perspectives on Children's Roles in the U.S.

Examines children's roles in the U.S. in cross-cultural perspectives; argues that children's roles have changed considerably, particularly in terms of children's work, and that children's abilities are not fully recognized in this society. Makes some policy recommendations, in preparation.

- Grubb, W.N. New Programs of State School Aid. National Legislative Conference, Task Force on Education. Washington, D.C., 1974.

Describes the new school finance programs in the nine states which have passed some version of percentage equalizing. Changes in the foundation programs in California and North Dakota are also briefly explained.

- Grubb, W.N. Public School Finance in a Post-Serrano World: The First Round of Legislation. *Law and Contemporary Problems*, in press.

Criticizes the evidence accepted by the Supreme Court against the egalitarian drift of the recent "*Serrano*-type cases." That evidence relates to the school districts in Connecticut and is contained in a study published by the *Yale Law Journal*. The present article points out technical and statistical errors in the Yale study. In particular, it is stressed that when three other states are examined, significant correlations exist between families in poverty and property valuations, revenue per pupil, etc., such as to

support the evidence of the *Serrano* mandate even if it was not a "complete" solution.

- Grubb, W.N., & Lazerson, M. Perspectives on Vocational Education and Career Education. *Inequality in Education*, Center for Law and Education, Harvard University, No. Sixteen, 1974.

Concentrates on the historical continuities surrounding vocationalism in the public schools from the manual training movement, precursor to vocational education itself, to its current manifestation in career education and junior colleges. Particular emphasis is placed on the two factors indispensable to understanding those developments: the burden increasingly placed on the schools to differentiate students in ways congruent with stratification in the labor force and along class, racial, and sexual lines, and faith in school generally and vocationalism particularly as forces for social cohesion and moral reconstruction. Includes a descriptive overview of federal legislation, reviews agreements for vocational education, and discusses differences in opinion.

- Grubb, W.N. Wealth, Price, and Income Effects in Local School Finance. Paper presented at the meeting of the American Educational Research Association, Chicago, April 1974.

- Guthrie, J.W. The Educational Implications of *Serrano*. *Education and Urban Society*, 1973, 5(2), 197-210.

An assessment of the changes to school districts and school practices should the *Serrano* decision necessitate the transition to a fiscally neutral finance system.

- Guthrie, J.W., & Craig, P.S. Teachers and Politics. *Fastback Series*, No. 21. Bloomington, Ind.: Phi Delta Kappa Educational Foundation, 1973.

A description and analysis of the evaluation of teachers' participation in the process of school-related policy making.

- Guthrie, J.W. Does Education Make a Difference?: The New Skeptics Have

Gone Too Far. In R.J. Solomon (Ed.), *Improving School Effectiveness*. Princeton: Educational Testing Service, 1973.

An analysis of the validity of school effectiveness studies and their impact upon educational policy makers.

Guthrie, J.W., & Skene, P.H. The Escalation of Pedagogical Politics. *Phi Delta Kappan*, 1973, LIV(6), 386-389. (Republished: Local Control Gives Way, *Compact*, 1974, VIII(2), 17-20.)

Analysis of the contemporary shift of school policy decisions to the state level, and the consequences for "local control."

Guthrie, J.W. Marcus A. Foster: Tribute and Reflection. *Phi Delta Kappan*, Feb. 1974, 413-415.

An admittedly partisan portrayal of the strengths of one of America's most capable educators, written following his tragic death in Oakland, California, in 1973.

Guthrie, J.W., & Thomas, C.T. Policy Implications of the Coleman Report Reanalyses. *Phi Delta Kappan*, 1973, LIV(9), 602-605. (Republished: In T.C. Hunt & J.G. Silliman, Jr., *The American School in its Social Setting*. Dubuque, Iowa: Kendall/Hunt, 1974.)

A description of the strengths and weaknesses of the efforts by Mosteller, Moynihan, and others to recast and reanalyze the original data and findings from the 1966 Coleman Report. The conclusion is that the reanalyses, for the most part, do not compensate for the flaws in the original piece. Consequently, the implications for new policy are minor.

Guthrie, J.W. School Finance Reform: Acceptable Remedies for *Serrano*. *School Review*, 1974, 82(2), 207-232.

A review and analysis of the state school finance reform strategies which would be legally and politically acceptable in the aftermath of a *Serrano*-type court decision.

Guthrie, J.W. Public Control of Public Schools: Can We Get It Back? *Public Affairs Report*. Bulletin of the Institute of Governmental Studies, University of California, 1974, 15(3).

Traces the evolution of the power of professional educators over school policy making and the consequent dilution of lay control. Provides a short review of hopeful reforms.

Guthrie, J.W., Fientz, A.S., & Mize, R. The Use of Performance Criteria to Allocate Compensatory Education Funds (Part II). Menlo Park: Stanford Research Institute, 1974.

Uses socioeconomic status and test score data for thirteen states to simulate the financial consequences of distributing federal school aid funds on the basis of pupil performance rather than poverty measures. One of the surprising findings is that the relationship between low income and low pupil performance is not as great as had been implied when the Elementary and Secondary Education Act was passed in 1965.

Guthrie, J.W. School Boards and the Need for Staff. *American School Board Journal*, in press.

Analysis of the conditions under which school boards would benefit from being provided with staffs independent of the school district executive officer. Suggests which kinds of tasks lend themselves to staff analysis and which do not.

Guthrie, J.W. American Education at the Bicentennial. *Compact*, in press.

A review of the major issues facing American education as we approach the country's bicentennial.

Guthrie, J.W. Review of W.F. Brazziel, Quality Education for All Americans. *Psychology Today*, in press.

Kirp, D.L. Schools as Sorters: The Constitutional and Policy Implications of Student Classification. *Pennsylvania Law Review*, 1973, 121, 705-798.

An assessment of student classification practice, which both describes the

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phenomenon and analyzes the plausibility and educational impact of viewing the issue constitutionally in terms of equal educational opportunity, racial discrimination, and due process. Subsumed in the term "classification" are ability grouping, special education, exclusion, and the IQ tests which make much classification possible.

Kirp, D.L. San Antonio Independent School District v. Rodriguez: Chaotic, Unjust, and Constitutional. *Journal of Law and Education*, 1973, 2, 461-473.

A very brief recounting of the prospects for school finance reform after *Rodriguez*.

Kirp, D.L. Student Classification, Public Policy, and the Courts. *Harvard Educational Review*, 1974, 44, 7-52. (Republished: In *The Rights of Children*. Cambridge: Harvard University Press, 1974. Pp. 279-328.)

Shortened version of *Pennsylvania Law Review* article, *Schools as Sorters*, rewritten for an audience principally interested in educational policy.

Kirp, D.L. The Great Sorting Machine. *Phi Delta Kappan*, 1974, 55, 521-528.

A semi-popular look at the problems of student classification, designed to reach school administrators and teachers. Reviews several ongoing projects that are attempting to deal with the problems.

Kirp, D.L., Buss, W., & Kuriloff, P. Legal Reform and Special Education: Empirical Studies and Procedural Proposals. *California Law Review*, 1974, 62, 40-175. (Republished: In N. Hobbs, Ed., *The Futures of Children*. San Francisco: Jossey-Bass, 1974.)

Describe the sources of resistance to change within schools, focusing specifically on recommended and unimplemented special education reform. Also undertakes an empirical inquiry into the aftermath of two landmark educational entitlement cases, *PARC* and *Mills*, and devises a procedural model which is both administratively manageable and of benefit to students.

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Kirp, D.L. Review of W. Stapleton, & L. Teitlebaum, *In Defense of Youth. Are Lawyers the Heroes of the Children's Movement?* *Texas Law Review*, in press.

Kirp, D.L., & Yudof, M. The Many Meanings of Sexism, in preparation

Krimmerman, L., & Walter, J. Childhood and Responsibility: Philosophical Redirections and Practical Proposals, in preparation.

After examining the philosophical implication of the work of H.L.A. Hart, John Dewey, Gerald Dworkin, and others, the authors argue that children may be held responsible for their conduct in some circumstances. The authors attempt to provide a new understanding of the adult-child dichotomy by arguing that childhood and responsibility are compatible. In light of their analysis, they then examine several contemporary practices, including compulsory education, voting, and accountability for criminal conduct.

Marks, F.R., with assistance of Salkovitz, L. The Defective Newborn: An Analytic Framework for a Policy Dialogue. Paper presented at a conference of the Health Policies Program on Neonatology, University of California, San Francisco, May 1974. To be published in the proceedings of the conference by the Health Policies Program.

Discusses the moral issues involved in the treatment of defective newborns.

Marks, F.R., & Benson, C.S. The Parent Buyers: A Free Market Model for Family Living and Child Rearing, in preparation.

A humorous piece on children vouchers.

McCathren, R. Comment: The Uniform Child Custody Jurisdiction Act and the Continuing Importance of *Ferreira v. Ferreira*. *California Law Review*, 1974, 62, 365-405.

Concerns the problems of "interstate children" - children whose parents each asserts a custody claim although, usually divorced, they live in different states.

Mnookin, R.H. Foster Care: In Whose Best Interest? *Harvard Educational Review*, 1973, 43(4), 599-638. (Republished: In *The Rights of Children*. Cambridge: Harvard University Press, 1974.)

Describes the process by which the state may coercively remove children from parental custody and examines the best interests of the child test, which is usually employed to decide whether a neglected child should be removed from parental custody. Suggests that this standard requires predictions that cannot be made on a case-by-case basis and necessarily gives individual judges too much discretion to impose their own values in deciding what is best for a child. A new standard is proposed to limit removal to cases where there is an immediate and substantial danger to the child and where there are no reasonable means for protecting the child within the home. In addition, considers how the law might better insure that prompt steps are taken to provide a stable environment for children who must be removed.

Mnookin, R.H. Review of J. Goldstein, S. Freud, & A.J. Solnit, *Beyond the Best Interests of the Child*. *Journal of The American Academy of Child Psychiatry*, in press.

Describes the psychoanalytically-based legal standards proposed by the book for child custody disputes. Suggests that helpful guidance is provided for custody disputes between a natural parent and some other adult who has formed a substantial psychological bond with the child, and therefore is a "psychological parent," but that the guides given are not helpful in dealing with the two other more common types of custody disputes: 1. Those arising out of divorce (where both natural parents may be psychological parents), and 2. In child neglect proceedings (where often the only adult with any relationship to the child is a natural parent, who may or may not be an adequate psychological parent).

Moody, J. Testing Tax Capitalization: An Experiment Afforded by a Local Public Transit Improvement, in preparation.

Tests the long-accepted but heretofore unproved hypothesis that people capitalized a future stream of property taxes into a house price reduction

equalling the present value of that stream. A unique tax border situation at the Daly City, California, Bay Area Rapid Transit station, where new benefits on each side of the county line were equal but new taxes unequal, afforded an opportunity for study. Observations of 1964 sales were used. The results support the hypothesis.

Rosencranz, A.D. The Politics and Economics of Textbook Selection. *Harvard Education Review*, in press.

Closely examines the effect of statewide textbook adoption on institutions and groups concerned with the selection of instructional materials. Based on systematic interviews with California state curriculum authorities, school officers, and spokesmen for special interest groups. Also uses economic data on the textbook publishing industry to analyze the economic and public policy questions and implications of alternative methods of textbook selection.

Shelton, D.R., & Berndt, D. Sex Discrimination in Vocational Education. *California Law Review*, 1974, 62(4).

Three-part article which describes the various means by which children are socialized into sex-type occupations; the potential remedies offered by the Educational Amendment of 1972; and other statutory and constitutional bases for challenge to present procedures of socialization.

Shelton, D.R. State Regulation of School Curriculum in California, in preparation.

An analysis of state-mandated curriculum in California public schools—as compared with state control over private schools. The conclusions are that while the regulation of public school content is very detailed, the state exercises almost no control over private schools.

Shelton, D.R. The Role of the State in Moral Education: The Experience of California's Moral Guidelines. Paper to be delivered at the Northridge Conference on Moral Education, Northridge, October 1974. To be published in proceedings of the conference, *California Papers on Moral Education*, in press.

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Shelton, D.R. Review of proceedings of Actes du Troisième Colloque International sur la Convention Européenne des Droits, Bruxelles, 1970. Vie Privée et Droits de l'Homme. *American Journal of Comparative Law*, in press.

Concerned with the efforts of the European Convention on Human Rights to guarantee respect for privacy and family life, particularly the right of parents to exercise control over the education of their children.

Skolnick, A. Review of J. Goldstein, S. Freud, & A.J. Solnit, *Beyond the Best Interests of the Child*. Beyond the Wisdom of Solomon. *Psychology Today*, May 1974, 7(12), 15-16.

Skolnick, A. The Family Revisited: Recent Social Science Research and Theory. *Journal of Interdisciplinary History*, M.I.T. Press, Cambridge, in press.

Reviews and contrasts the old and the new concepts of the family. Recent research in history, psychiatry, and the social sciences has revised many previously held assumptions about the nature of the family and its functioning in the lives of individuals and in society as a whole; the family is emerging as a more complex, variable, and problematic phenomenon than it was earlier thought to be.

Skolnick, A. What is the History of the Family the History of? *History of the Family Newsletter*, Clark University, Worcestershire, in press.

A briefer version of The Family Revisited: Recent Social Science Research and Theory.

Sugarman, S.D. Accountability through the Courts. *School Review*, 1974, 82(2), 233-259.

Explores legal theories upon which suit for damages might be brought by non-learner against his public schools. Examines difficulties of winning such a suit; goals of the suit in terms of education reform; likely responses to such a suit by schools; and alternatives to reform routes to individual accountability.

Sugarman, S.D. Educational Consumerism Through the Courts. *Urban/Rural Newsletter*, May 1974, 20 ff.

Sugarman, S.D. If Johnnie Can't Read, Get Yourself a Lawyer. *Learning*, 1974, 2(8), 26-31.

Somewhat popularized version of "accountability through courts," aimed primarily for teachers and their special concerns.

Sugarman, S.D. A Parent's Right to Decide. *Saturday Review/World*, Nov. 6, 1973, 55 ff.

Illustrates current instances in which parents challenge compulsory attendance laws by assertion that keeping the child at home is in the child's best interest.

Sugarman, S.D. *San Antonio Independent School District v. Rodriguez*: Issues for the Future. *Journal of Law and Education*, 1973, 2, 472 ff.

Argues briefly that *Rodriguez* still leaves open the role of the court in cases of special classes of children who need school resources directed toward their problems, e.g., handicapped, non-English speaking.

Sugarman, S.D. The Selling of *Serrano*. In *Proceedings, 1972 National Tax Association* annual conference, Washington, D.C. Pp. 243-246.

Speech to NTA Conference on *Serrano* as an opportunity for creative legislative reform.

Sugarman, S.D., & Coons, J.E. Vouchers for Public Schools. *Inequality in Education*, 1973, (15), 60 ff.

Explores idea of public schools of choice. Raises possible problems and policy issues which must be resolved.

Sugarman, S.D., & Widess, E.G. Equal Protection for Non-English Speaking School Children. *California Law Review*, 1974, 62(1), 157-182.

Argues for right of non-English speaking children to reasonable efforts by

schools to deal with language handicaps. Explores interests of school districts, harm done by current practices, and role of judiciary, and concludes that court intervention is proper. Arising out of participation in *Lau v. Nichols*.

Sugarman, S.D. Family Choice: The Next Step in the Quest for Equal Educational Opportunity? *Law and Contemporary Problems*, in press.

Examines reasons for experimenting with vouchers; considers Catholic school and race issues; compares other related reforms; treats vouchers in the context of finance reform; considers policy issues relating to enrollment of students, teachers rights, variety in program, etc., under voucher plans; describes and evaluates Alum Rock and other such experiments.

Tribe, L. Toward a Model of Roles in the Due Process of Life and Law. *Harvard Law Review*, 1973, 87(1).

Through examination of the Supreme Court's decisions relating to school finance (*Rodriguez*) and abortion, develops a constitutional theory of due process which provides a new theoretical basis for recent decisions: the Constitution would be seen as allocating decision-making power for various issues between government and individuals. Using this theory, the abortion case is reexamined and justified.

Yudof, M., & Kirp, D.L. The Uneasy Case for Preferential Admissions Policies. *Change*, in press.

Yudof, M., & Kirp, D.L. Values and Schools: Indoctrination of the Young in a Free Society, in preparation.

Symposium on Children

Mnookin, R.H. (Ed.). Introduction. Children and the Law. *Law and Contemporary Problems*. (Whole issue), in preparation. The Symposium issue will be comprised of an introduction and the following articles.

Burt, R. *Developing Constitutional Rights In, Of, and For Children.*

Examines a number of Supreme Court decisions dealing with the rights of children against state intervention (such as is developing in the jurisprudence of the juvenile court) and the rights of parents against state intervention regarding parental child-rearing practices. Because these two lines are in conflict in ways not properly understood by the courts, a more general principle is suggested to govern developing constitutional doctrine regulating state intervention into the lives of children and their families.

Marks, F.R. *Detours on the Road to Maturity: Legal Perspectives of Children Living in and Preparing to Leave their Parental Home.*

Recognizing that growing up in America today takes longer than it did in the early Nineteenth Century, an examination of how the law has viewed and now views and deals with children in their teens, with particular emphasis on how the law sees the transition from childhood into adulthood. Does the law encourage or discourage the maturation process?

Mnookin, R.H. *The Best Interest of the Child Standard: A Study of Indeterminacy.*

Discusses a fundamental question that arises in the consideration of legal issues related to children: How well can we appraise what is best for the child in custody disputes? Shows that social science evidence is of limited usefulness in answering this question because of institutional limitations inherent in the way that courts and bureaucracies operate, limitations in our ability to make reliable predictions, and disagreements about values. Explores what the role of law should be in this state of affairs, and criticizes the best interest standard used in custody disputes, as well as several of the suggested alternatives.

Skolnick, A. *The Limits of Childhood: Concepts of Child Development in Social Context.*

A review and critique of conceptions of childhood in child development theories. Argues that current theories have been shaped by social and cultural forces.

Stern, D. The Changing Economic Role of Children in the United States.

Explores the changes that have occurred in the economic relationships within the family during the last 150 years. Through an examination of historical data, it asks what the economic costs and benefits of children are to their parents. It shows that today there are far fewer economic benefits to parents, both in terms of the child's earnings and in terms of support of the parents during old age.

Sugarman, S.D., & Kirp, D.L. Inducement, Coercion, and Other Governmental Devices: Effectuating Society's Interests in Education.

A taxonomy of governmental devices (through "carrots and sticks" such as subsidies, compulsory laws, etc.) by which the government effects achievement of its goal of educating the young. Analyzes some of the rules that now exist, judges them to be unnecessarily inflexible, and suggests that the state should become more flexible about the terms on which children become educated.

Tribe, L.H. Childhood, Suspect Classifications, and Conclusive Presumptions: Three Linked Riddles.

Analyzes the social conception of childhood and two difficult problems in constitutional doctrine—identifying discreet and insular minorities, and evaluating irrebuttable presumptions—to see what light each can shed upon the others. Develops a constitutional theory of policy formation in which the circumstances of moral flux impinging upon fundamental rights and affecting "semi-discreet minorities" play a central role, and sketches a possible justification, intended to apply even within traditional political theories, for a special form of judicial activism "designed to jar systemically unresponsive agencies into a more open posture." Among the doctrinal conclusions tentatively reached is that, in the absence of compelling justification, "age-based lines must be rebuttable both in settings arguably characterized by moral transition coupled with self-preserving institutional unresponsiveness, and in situations arguably involving the deprivation of liberties ordinarily deemed fundamental."

THE STAFF

Director (through September 30, 1974)

ROBERT HARRIS MNOOKIN, LL.B. (*magna cum laude*) Harvard Law School (1968); B.A. in economics (*magna cum laude*) Harvard College (1964). Fulbright Scholar, Econometric Institute, Rotterdam School of Economics, Rotterdam, The Netherlands (1964-65). Law Clerk to Judge Carl McGowan, U.S. Court of Appeals for the District of Columbia Circuit (1968-69); Law Clerk to Justice John M. Harlan, U.S. Supreme Court (1969-70). Associated with law firm of Howard, Prim, Rice, Nemerovski and Pollak, San Francisco (1970-72). Since 1972, director, Childhood and Government Project and acting professor of law, University of California, Berkeley.

Project responsibility: Foster care study; casebook on children and the law; political economy of childhood.

Director (from October 1, 1974)

JOHN E. COONS, J.D., Northwestern University (1953); B.A. University of Minnesota, Duluth (1950). Trial attorney, Armed Services Board of Contract Appeals, Pentagon (1953-55); law faculty, Northwestern University (1955-1967). Since 1968, professor of law, University of California, Berkeley. Co-author with William Clune and Stephen Sugarman of *Private Wealth and Public Education*, which formed the basis of current school finance litigation. Has been active in developing school finance litigation throughout the United States, especially in California, Washington, and Texas.

Project responsibility: School finance; the political economy of childhood.

Principal Investigators

CHARLES S. BENSON, Ph.D. in economics, Columbia University (1955); M.A. in economics, Columbia University (1948); A.B. in economics,

Princeton University (1943). Since 1968, professor, School of Education, University of California, Berkeley. Consultant, Planning Commission, Government of Pakistan and project director, Pakistan-Berkeley Program in Education Planning; staff director, New York State Commission on the Quality, Cost, and Financing of Elementary and Secondary Education (Fleischmann Commission); chief consultant, California Senate Select Committee on School District Finance (1968-70). Author of numerous books, monographs, and articles on educational finance, higher education, and educational planning for developing countries.

Project responsibility: The role of children in the public sector.

JAMES W. GUTHRIE, Ph.D. in educational administration, Stanford University (1968); M.A. in education, Stanford University (1968); B.A. in anthropology, Stanford University (1958). Since 1971, associate professor, School of Education, University of California, Berkeley. Has served as director of the University of California Urban Education Program; deputy director of the New York State Commission on the Quality, Cost, and Financing of Elementary and Secondary Education; educational specialist to the U.S. Senate; consultant to the U.S. Commissioner of Education.

Project responsibility: School governance; the political economy of childhood.

DAVID L. KIRP, J.D. (*cum laude*) Harvard Law School (1968); B.A. in American Studies (*cum laude*, Phi Beta Kappa), Amherst College (1965). Since July, 1974, associate professor, Graduate School of Public Policy, University of California, Berkeley; since 1971, lecturer, School of Law; instructor and assistant to the Dean, Harvard Graduate School of Education (1968-69); director, Center for Law and Education and assistant professor, Harvard Graduate School of Education (1969-71).

Project responsibility: Compulsory education; classification; political economy of childhood.

STEPHEN D. SUGARMAN, J.D. (*summa cum laude*) Northwestern University (1967); B.S. B.A. in business administration, Northwestern University (1964). Associated with law firm of O'Melveny & Myers, Los Angeles (1967-72); served as acting director of the Fleischmann Commission (1970).

Since 1972, acting professor of law, University of California, Berkeley. Co-author with William Chime and John Coons of *Private Wealth and Public Education*, which formed the basis of much current school finance litigation, especially in California and Texas.

Project responsibility: Compulsory education; political economy of childhood.

Staff Attorneys

F. RAYMOND MARKS, J.D., University of Chicago (1952), A.B. Washington University (1947). Study director and senior research attorney of the American Bar Foundation (1968-1972). Taught at the Graduate School of Business and the School of Social Service Administration, University of Chicago. Practiced law with Mayer, Meyer, Austrian, and Platt; the American Civil Liberties Union, and as a partner in Overton, Marks, and Schwartz, all of Chicago.

Project responsibility: Legal definition of childhood.

RANDALL R. McCATHREN (Part-time Consultant), J.D., University of California, Berkeley, School of Law (1974); M.S. candidate in City Planning (joint degree program in Law and City Planning), School of Environmental Design, University of California, Berkeley; B.S. in Engineering and Applied Science (*magna cum laude*), Yale University (1971). Research assistant, Childhood and Government Project (1973-74); special consultant, Alameda Regional Criminal Justice Planning Board (1972); European Tour Manager, Performing Arts Abroad, Inc. (summers, 1971, 1972); proposal consultant, New Haven Board of Education (1971); intern in research, industrial marketing, and computer programming at U.S. Dept. of Commerce, Westinghouse, and Gulf Oil, respectively.

Project responsibility: Foster care project.

DINAH S. SHELTON, J.D., School of Law, University of California, Berkeley (1970). B.A. in Political Science, University of California, Berkeley. Studied at the University of Edinburgh and the Institut Bourgeois des Langues Vivantes, Associate, International Institute of Human Rights, Strasbourg, France, 1970-72, sponsored by International Legal Studies Committee.

Boalt Hall, School of Law.

Project responsibility (part-time): What is a public school?; curriculum content; moral guidelines.

DAVID M. WHITE, J.D. (*cum laude*) Harvard Law School (1973); B.A. in English (*cum laude*) Boston College (1968). Summer associate, Gadsby & Hannah, 1972; national research director, Ripon Society, 1970; research assistant, Congressional Republican Wednesday Group, 1969-70. Co-author, College Debate Series, American Enterprise Institute, 1968-70; faculty member, Georgetown University Summer Forensics Institute, 1968-70, 73.

Project responsibility: School finance legislation, education and the labor market.

Staff Economists

W. NORTON GRUBB, doctoral candidate, Harvard University; B.A. (*magna cum laude*) in economics, Harvard College (1969). NEA Title IV Fellowship (1970-73); research associate, Center for Educational Policy Research, Harvard Graduate School of Education (1970-73). Ph.D. dissertation nearing completion: "Intergovernmental Aid and Resource Disparities: School Finance in Massachusetts."

Project responsibility: Analysis of private spending on children; economic theories of family behavior and family-state interaction; historical analysis of the role of the state.

GERALD L. WEBER, Ph.D. in economics, University of California at Los Angeles (1964); M.A. in economics, UCLA (1962); B.A. in economics, UCLA (1959). Staff economist, Childhood and Government Project; acting associate professor, Graduate School of Public Policy, University of California, Berkeley (1970-74); research associate for Medical Economics, Board of Medicine, National Academy of Sciences (1969-70); research associate, Brookings Institution (1967-69); operations research analyst, Department of HEW; instructor and assistant professor, University of Illinois (1963-66).

Project responsibility: Analysis of public spending on children.

Staff Social Scientists

LOUIS FREEDBERG, M.A. in anthropology, University of California, Berkeley (1973); B.A. in psychology, Yale University (1972). Teaching assistant in anthropology, University of California, Berkeley; consultant, Carnegie Council on Children (1972).

Project responsibility (as part-time consultant): The "uses" of children in American society; anthropological analysis.

ARMIN D. ROSENCRAZ, LL.B., Stanford University (1962); Ph.D. in political science, Stanford University (1970); M.A. in political science, Stanford University (1962); A.B. Princeton University (1958). Senior associate, Marshall, Kaplan, Gans and Kahn, San Francisco, directing the national evaluation of the Model Cities Program for the Department of Housing and Urban Development (1970-72). Associate director, Special Committee on Congressional Ethics, The Association of the Bar of the City of New York (1967-69).

Project responsibility (part-time): Politics and economics of textbook selection; moral education and political socialization.

ARLENE S. SKOLNICK, Ph.D. in psychology, Yale University (1962); B.A. in English (*magna cum laude*, Phi Beta Kappa), Queens College (1954). Research psychologist, Institute of Human Development, University of California, Berkeley (1966-67); research associate, Laboratory of Human Development, Graduate School of Education, Harvard University (1965-66).

Project responsibility (part-time): Concepts of childhood and the family.

Staff Analysts

PAUL M. GOLDFINGER, M.S. in operations research, University of California, Berkeley (1969); B.S. in physics (*magna cum laude*, Phi Beta Kappa), City College of New York (1967). NEA Title IV Fellowship (1967-69). Consultant to the New York State Commission on the Quality, Cost, and Financing of Elementary and Secondary Education, the Citizens Commission on Maryland Government, Inc., and the California Senate Select Committee on School District Finance.

Project responsibility (part-time): Data base; California legislation; fi-

nance of services in California.

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Project responsibility (part-time as of Fall 1974): California foster care study.

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